

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MELVIN PARKER,

Plaintiff,

v.

SGT GARCIA, et al.,

Defendants.

Case No. 1:23-cv-01583-KES-EPG (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO DISMISS
ACTION WITH PREJUDICE

(Doc. 13)

Plaintiff Melvin Parker is proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. This matter was referred to a United States magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On March 4, 2024, the assigned magistrate judge reviewed plaintiff's complaint and issued a screening order. Doc. 9. The magistrate judge found that plaintiff failed to state any claim and ordered plaintiff to, within 30 days, either (1) file a first amended complaint or (2) notify the court that he wanted to stand on his complaint. *Id.* at 9. The court cautioned that it would issue findings and recommendations to dismiss the complaint should plaintiff choose to stand on his complaint. *Id.* After plaintiff failed to file an amended complaint or notify the court that he wanted to stand on his complaint, on April 15, 2024, the magistrate issued findings and recommendations that this case be dismissed for failure to prosecute and failure to comply with

1 the court's orders. Doc. 11. On the same day, plaintiff filed notice that he wished to stand on his
2 complaint. Doc. 12.

3 Consistent with plaintiff's notice, on April 16, 2024, the magistrate judge vacated the
4 previous findings and recommendations and issued new findings and recommendations,
5 recommending this case be dismissed with prejudice for failure to state a claim. Doc. 13. The
6 findings and recommendations were served on plaintiff and notified him that any objections were
7 due within 30 days. *Id.* at 8. Plaintiff has not filed any objections and the time to do so has
8 lapsed. *See* docket.

9 In accordance with 28 U.S.C. § 636 (b)(1), the court conducted a de novo review of this
10 case. Having carefully reviewed the file, the court finds that the findings and recommendations
11 are supported by the record and proper analysis and adopts the findings and recommendations.

12 Accordingly, it is ORDERED that:

- 13 1. The findings and recommendations issued on April 16, 2024, Doc. 13, are ADOPTED
14 in full.
- 15 2. This action is DISMISSED for failure to state a claim.
- 16 3. The Clerk of Court is directed to CLOSE this case.

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19 IT IS SO ORDERED.

20 Dated: November 2, 2024


UNITED STATES DISTRICT JUDGE